



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO. **FILING DATE** **FIRST NAMED INVENTOR** **ATTORNEY DOCKET NO.**

09/031, 108 02/26/98 BARANDA

P OT-4190

026584

PM82/0731

OTIS ELEVATOR COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
10 FARM SPRINGS
FARMINGTON CT 06032

EXAMINER

~~TRAN, T~~
ART UNIT

3652

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/031,108

Applicant(s)

Baranda et al.

Examiner

Thuy V. Tran

Art Unit

3652



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Apr 30, 2001
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-13, 16-22, and 71-75 is/are pending in the application.
- 4a) Of the above, claim(s) 11, 12, 17, 21, 22, and 73 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-10, 13, 16, 18-20, 71, 72, 74, and 75 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

Art Unit: 3652

DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 30, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/031,108 is acceptable and a CPA has been established. An action on the CPA follows.

Election/Restriction

2. Applicant's election without traverse of Species I, Figure 6a in Paper No. 8 is acknowledged. It is noted that applicant elected with traverse of Species I, Figure 6a. However, there was no argument presented.

3. Claims 11, 12, 17, 21, 22 and 73 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

Note, regarding claims 2-10, 16, and 18-20, even though the preamble of independent claim 2 set forth a tension member as a subcombination, however, body of the claim positively recites limitations directed toward combination. Therefore, these claims will be examined as combination.

Art Unit: 3652

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 5, it is unclear what the recitation “differential longitudinal motion” is. Further, it is unclear what the differences between “the coating layer blocks differential longitudinal motion of the plurality of individual ropes” of claim 5 and “a common layer of polyurethane coating ... maintaining separation of the individual ropes and resisting longitudinal movement of the ropes relative to one another”, as recited in claim 2.

Same problem exists in claim 6 as well.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 2-10, 13, 16, 18-20, 71, 72, 74 and 75 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,162,283 A (GB'283) in view of Gladenbeck et al. 4,022,010.

Art Unit: 3652

GB '283 discloses an elevator system Figures 4-6, having a car, a sheave, and a flat tension member, Figure 3, engaged with the traction sheave to provide a lifting force for the car. The tension member comprises a plurality of individual load carrying ropes formed from non-metallic material, a coating layer separating, blocking the occurrence of differential motion of the individual ropes, and defining the engagement surface for engaging the sheave. The engagement surface is formed from an elastomer. The tension member has an aspect ratio (w/t) of greater than two (Figure 3).

Gladenbeck et al. '010 disclose in column 3, lines 46-53 that polyurethane coating would provide flexibility and better wear-resistant against external mechanical influences to the tension member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a polyurethane coating for the tension member of GB '283 as taught and suggested by Gladenbeck et al. '010 in order to provide flexibility and better wear-resistant against external mechanical influences.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 3652

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 2, 5, 6, 8-10, 13 and 18-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 12-15 and 20-22 of copending Application No. 09/218,990. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 2, 5, 6, 8-10, 13 and 18-20 of the present application are broader than claims 1, 12-15 and 20-22 of copending Application No. 09/218,990, and in fact that if any claims infringe the claims of the present application would also infringe claims 1, 12-15 and 20-22 of copending Application No. 09/422,801.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

10. Applicant's arguments filed April 30, 2001 have been fully considered but they are not persuasive.

Applicant argues that it is unclear whether the system disclosed by GB 2,162,283 is a traction drive or a drum drive winding machine. Each of the Figures 4-6 separately discloses at

Art Unit: 3652

least one continuous rope suspending a car and a counterweight 18, 19 via drive sheave.

Therefore, it is concluded that GB '283 does show a traction drive.

Applicant argues that Gladenbeck '010 does not disclose a traction-drive elevator system or suggest suitability for such system. The Office does rely on the teaching of using a polyurethane coating by Gladenbeck '010 to provide flexibility and better wear-resistant against external mechanical influences to the tension member of GB '283. Therefore, Gladenbeck '010 does not need to teach a traction-drive elevator system.

Applicant's arguments with respect to other prior art of record, e.g., JP '811, SU '764 and GB '209, have been considered but are moot because the rejections have been withdrawn.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is (703) 308-2558.



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

TVT

July 30, 2001